

Serial No. 10/695,916

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Docket #: 2180-001

**REMARKS**

OCT 04 2006

Applicant wishes to thank Examiner for the allowance of claims 42 and 48 and for the conditional allowance of claims 43, 44, 49 and 50 if rewritten to overcome the objections set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims.

Further Applicant wishes to thank Examiner for withdrawal of the restriction requirement and the species election. Having withdrawn both, Applicant has indicated the status of the claims as compared to those originally filed.

**Examiner has objected to claims 43, 44, 46, 47, 49, 50, 52, 53, 55 and 56 because of the following informalities: their dependencies appear to be improper.**

As suggested by Examiner, Applicant has amended claims 43 and 44 to depend from claim 42, claims 46 and 47 to depend from claim 45, claims 49 and 50 to depend from claim 48, claims 52 and 53 to depend from claim 51 and claims 55 and 56 to depend from claim 54.

**Examiner has objected to claims 45-47 because of the following informalities: claim 45 ends with the word "and" and without a period. Claims 46 and 47 are objected to because they are dependent from claim 45.**

Applicant has amended claim 45 to remove the word "and" and to end the claim with a period.

Applicant believes that claims 43, 44, 45, 46, 47, 49, 50, 52, 53, 55 and 56 are now in condition for allowance.

**Examiner has rejected claims 1-13, 17, 27-32, 45-47 and 54-56 are rejected under 35 USC 102(b) as being anticipated by Foley (US Pat. No. 3,728,277).**

Applicant has amended claims 1, 28, 45, 51 and 54 to more clearly describe that the fluid is in two distinct phases.

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Foley teaches creation of a stable, water-in-oil emulsion. Foley does not teach two distinct phases and, being absent a teaching of two separate phases, cannot anticipate Applicant's invention.

Applicant believes therefore that claims 1-13, 17, 27-32, 45-47 and 54-56 are distinguished over Foley and are therefore in condition for allowance.

**Examiner has rejected claims 20-22, 37 and 51-33 under 35 USC 103(a) as being unpatentable over Foley (US Pat No. 3,728,277) in view of Poelker (US Pat No. 6,100,221)**

Respectfully, as Foley is directed solely to a water-in-oil emulsion, one would not look to Poelker to satisfy those elements which are missing from Foley. Therefore Applicant believes that the combination of Foley and Poelker do not teach all of the elements of the claims as outlined by Examiner.

Applicant believes therefore that claims 20-22, 37 and 51-33 are distinguished over Foley in view of Poelker and are therefore in condition for allowance.

**Examiner has rejected claims 14-16, 18, 19, 23-25, 33-36 and 38-40 under 35 USC 103(a) as being unpatentable over Foley (US Pat No. 3,728,277) and Poelker (US Pat No. 6,100,221) in view of McDougall et al. (US Patent No. 4,738,897)**

Respectfully, as Foley is directed solely to a water-in-oil emulsion, one would not look to Poelker and McDougall to satisfy those elements which are missing from Foley. Therefore Applicant believes that the combination of Foley, Poelker and McDougall does not teach all of the elements of the claims as outlined by Examiner.

Applicant believes therefore that claims 20-22, 37 and 51-33 are distinguished over Foley and Poelker in view of McDougall and are therefore in condition for allowance.

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**Examiner has rejected claims 26 and 41 under 35 USC 103(a) as being unpatentable over Foley (US Pat No. 3,728,277) and Poelker (US Pat No. 6,100,221) in view of Blezard et al. (US Pat No. 5,807,810).**

Respectfully, as Foley is directed solely to a water-in-oil emulsion, one would not look to Poelker and Blezard to satisfy those elements which are missing from Foley. Therefore Applicant believes that the combination of Foley, Poelker and Blezard does not teach all of the elements of the claims as outlined by Examiner.

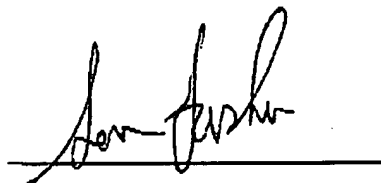
Applicant believes therefore that claims 20-22, 37 and 51-53 are distinguished over Foley and Poelker in view of Blezard and are therefore in condition for allowance.

Applicant believes that no new matter has been introduced as a result of the amendments enclosed herein. Reconsideration and allowance of claims 1- 41, 43-47 and 49-56 now on file is respectfully requested. Claims 42 and 48 are not amended herein and Applicant believes remain allowable.

Respectfully submitted,

Date: Oct 4/06

**Facsimile 1-571-273-8300 (TC 1712)**



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